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cc

Subject An Observation

Greetings,

Donetta chatted with me about your meeting with OMB. As I understand their view there are two classes:

1. States that provide NO HAVA funds to local governments; and
2. States that disburse HAVA funds to local governments.

As I understand the concept, the requirements follow the money.

I think there may be a third class:

3. States that grant HAVA funds to local governments for specific purposes.

This 3rd class is quite common among the states. Under this local governments have no discretion to expend the money in any other way than what the grant agreement permits. The Colorado letter is a case in point. The state grants counties HAVA funds to purchase voting systems after all the necessary documentation is provided to the state. Washington State is another that comes to mind as having a very tight control over how HAVA funds are spent by local governments.

The objective of the Advisory is to prevent local governments from supplanting local funds with HAVA dollars. The 3rd class above does exactly that. In fact, it does that much more accurately than a local MOE. Remember most local governments are on a fiscal year that ended either December 31, 1999 or June 30, 2000. Their MOE would not reflect peak election spending prior to the 2000 election. There could be substantial supplanting of local funds with HAVA dollars without the local governments spending below their pre-2000 MOE. This is because election costs have significantly increased over the intervening eight years. So, I would not see local MOE as a very good deterrent to any supplanting. Rather I would see a tight grant process as truly preventing any supplanting with HAVA dollars.

Let me be clear, during the entire discussion on MOE it has not been the view of elections officials that local governments should be able to supplant local funds with HAVA dollars. Quite the contrary, we believe HAVA funds are for Title III requirements and improvements to the conduct of elections. States have guarded HAVA funds from any attempts to use the funds for any other purposes. Our objection is to a process that will be very time consuming and will not achieve the objective.

I understand that representatives from the Washington Secretary of State and a couple of their county officials are still coming to testify on Thursday. I think they could be very helpful to you through their descriptions of how their controls work.

Finally, state election officials would welcome an opportunity to assist you in designing a system that meets the stated objective of the Advisory.

Thanks

Chris Thomas